

ROBERT R. SHRODE

IBLA 84-649

Decided October 17, 1985

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting oil and gas lease application U 54504.

Affirmed.

1. Administrative Procedure: Administrative Record--Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Filing

Under 43 CFR 3112.0-5 and 3112.2-4, any simultaneous oil and gas applicant receiving the assistance of any person or entity which is in the business of providing assistance to participants in the Federal simultaneous oil and gas leasing program must indicate on the lease application the name of the party or filing service that provided assistance. Where an applicant admits that he has received such assistance and has not so indicated on Part B of his application, his application is properly rejected.

APPEARANCES: Robert R. Shrode, pro se.

OPINION BY CHIEF ADMINISTRATIVE JUDGE HORTON

On May 17, 1984, the Wyoming State Office, Bureau of Land Management (BLM), issued a decision rejecting the simultaneous noncompetitive oil and gas lease application of Robert R. Shrode (U 54504). Shrode was the successful drawee for parcel UT-359 in the September 1983 drawing of simultaneous oil and gas applications.

BLM rejected Shrode's application for the following reason:

We have determined that Omni International, LTD (OMNI), 3595 Sheridan #206, Hollywood, FL 33024 provided you assistance in filing your application. Your application, copy enclosed, failed to reflect that firm's name and address in the "FILING SERVICE'S FULL NAME, ADDRESS AND ZIP CODE (IF APPLICABLE)" block.

Accordingly, citing the provisions of 43 CFR 3112.2-4, BLM rejected Shrode's application, and he appealed this decision to this Board.

The relevant regulation, 43 CFR 3112.2-4, provides as follows:

Any applicant receiving the assistance of any person or entity which is in the business of providing assistance to participants in the Federal simultaneous oil and gas leasing program shall indicate on the lease application the name of the party or filing service that provided assistance.

Such "person[s] or entit[ies]" are defined at 43 CFR 3112.0-5 as "those enterprises, commonly known as filing services, which sign, formulate, prepare or otherwise complete or file applications for oil and gas leases for consideration."

Shrode has admitted in his statement of reasons that Omni prepared his application. ^{1/} The space for designating a filing service on Part B of Shrode's application was left blank. Thus, Shrode violated the terms of 43 CFR 3112.2-4. Failure to disclose the existence of a filing service is a substantive defect that results in rejection of the application under 43 CFR 3112.5-1(a). Carl S. Matuszek, 86 IBLA 124 (1985).

Shrode points out that he was unaware of the requirements of 43 CFR 3112.2-4, that he had not deliberately omitted the information, and that he had perpetrated no fraud or misrepresentation.

Shrode had ample opportunity to become aware of the requirements appertaining to the filing of his application. In addition to the provisions of the regulation, knowledge of which must be imputed to him, the application form would have informed him of the requirement that he disclose his filing service. Part B of the application form provides a space entitled "Filing Service's Full Name, Address and Zip Code (If Applicable)" and instructs applicants that "[i]f a filing service was used by the applicant in the preparation of this application, enter the name and address of that filing service."

We disagree with Shrode's suggestion that his failure to disclose his filing service was harmless. As we held in Carl S. Matuszek, *supra*, BLM is assisted in enforcing the prohibition against multiple filings by requiring all applicants to disclose that they have used a filing service. This

^{1/} But for Shrode's admission in his statement of reasons that he had received assistance from Omni in preparing his application, we would be unable to affirm BLM's decision, based on the record forwarded to the Board. This record contains only four documents: (1) Part B of Shrode's application, which does not identify Omni as his filing service, (2) a photocopy of a check drawn on Omni's account in the amount of \$5,100, payable to the Bureau of Land Management, bearing the notation "65 filings," (3) a copy of BLM's decision of May 17, 1984, and (4) Shrode's notice of appeal. BLM has not offered any explanation on how it determined that Omni had assisted Shrode, and we are left to speculate that Omni submitted Shrode's (and other clients') filing fees via a check drawn on Omni's account. The photocopied check in the record, however, bears no notation supporting such speculation.

disclosure, along with other requirements, allows BLM to scrutinize the filings of clients of a filing service to determine whether the service has attained an increased probability of success in the drawing which would work unfairly against competing applicants. Preventing parties from gaining multiple chances in oil and gas lease drawings is fundamental to operation of a fair drawing system. Requiring disclosure in advance is justified by administrative convenience and the desire to expedite the processing of oil and gas lease applications and the issuance of leases.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Wm. Philip Horton
Chief Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Bruce R. Harris
Administrative Judge

